



April 3, 2007

ENGROSSED SENATE BILL No. 134

DIGEST OF SB 134 (Updated March 28, 2007 3:47 pm - DI 92)

Citations Affected: IC 16-19; IC 24-4; IC 34-30; noncode.

Synopsis: Automated external defibrillators in health clubs. Requires that before July 1, 2008 the owner or operator of a health club: (1) have a defibrillator available on the health club premises; (2) employ at least one individual who is trained to use the defibrillator; (3) have a trained employee on the health club premises during business hours; (4) post a sign indicating the location of the defibrillator; and (5) comply with other defibrillator requirements. Provides that a person who violates the health club defibrillator requirements commits a Class C infraction. Allows inspection of a health club to determine compliance. Provides certain immunity from liability for acts or omissions involving defibrillators in health clubs.

Effective: July 1, 2007.

Miller, Rogers

(HOUSE SPONSORS — TYLER, BROWN C, BROWN T)

January 8, 2007, read first time and referred to Committee on Health and Provider Services.

February 8, 2007, amended, reported favorably — Do Pass.

February 12, 2007, read second time, ordered engrossed. Engrossed.

February 13, 2007, read third time, passed. Yeas 37, nays 9.

HOUSE ACTION

March 6, 2007, read first time and referred to Committee on Public Health.

March 26, 2007, amended, reported — Do Pass. Recommitted to Committee on Ways and Means.

April 2, 2007, amended, reported — Do Pass.

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April 3, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 134

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-19-3-29.2 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: **Sec. 29.2. The state department may**
4 **adopt rules under IC 4-22-2 to implement the requirements set**
5 **forth in IC 24-4-15 concerning automated external defibrillators**
6 **in health clubs.**

7 SECTION 2. IC 24-4-15 IS ADDED TO THE INDIANA CODE AS
8 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2007]:

10 **Chapter 15. Automated External Defibrillators in Health Clubs**

11 **Sec. 1. As used in this chapter, "defibrillator" means an**
12 **automated external defibrillator.**

13 **Sec. 2. (a) As used in this chapter, "health club" means an**
14 **establishment at which:**

15 **(1) an individual, a corporation, a limited liability company,**
16 **a partnership, an association, a firm, an educational**
17 **institution, or any other business enterprise offers:**

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(A) instruction, training, or assistance in physical fitness that is focused primarily on cardiovascular exertion; or

(B) facilities for the:

(i) preservation;

(ii) maintenance;

(iii) encouragement; or

(iv) development;

of physical fitness or well-being; and

(2) at least:

(A) fifty (50) persons have:

(i) purchased; or

(ii) paid a fee for;

the right to use the physical fitness facilities; or

(B) thirty (30) pieces of motorized physical fitness equipment are provided for use by individuals.

(b) The term includes the following:

(1) Health spas and studios.

(2) Sports centers.

(3) Weight control studios.

(4) Gymnasiums and workout centers in schools, colleges, and universities.

(c) The term does not include a workout center in:

(1) a hospital licensed under IC 16-21 or a health facility licensed under IC 16-28;

(2) a hotel or motel, unless the workout center allows membership by individuals who are not guests of the hotel or motel; or

(3) an apartment, a condominium, or a town home complex.

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, an association, a firm, or an educational institution.

Sec. 4. As used in this chapter, "state department" refers to the state department of health.

Sec. 5. An owner or operator of a health club shall do the following:

(1) Ensure that a defibrillator is located on the health club premises and is easily accessible to the health club staff, members, and guests.

(2) Employ at least one (1) individual who:

(A) has satisfactorily completed a course approved by the American Red Cross or the American Heart Association; and

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- 1 (B) is currently certified;
 2 in basic first aid, cardiopulmonary resuscitation, and
 3 defibrillator use.
 4 (3) Ensure that at least one (1) individual described under
 5 subdivision (2) is on the health club premises during the
 6 health club's business hours.
 7 (4) Ensure compliance with the requirements set forth in
 8 IC 16-31-6.5.
 9 (5) Post a sign at each entrance to the health club that
 10 indicates the location of each defibrillator.
 11 Sec. 6. A person is immune from civil liability for acts or
 12 omissions involving the use of or the failure to use a defibrillator
 13 located on the premises of a health club under this chapter as
 14 provided under IC 34-30-12-1.
 15 Sec. 7. (a) The state department and the division of fire and
 16 building safety may inspect a health club at any time:
 17 (1) according to rules adopted by the state department; or
 18 (2) in response to a filed complaint alleging noncompliance
 19 with this chapter.
 20 (b) A fire department may inspect a health club for compliance
 21 with this chapter as part of an inspection program under
 22 IC 36-8-17-8.
 23 Sec. 8. A person who violates this chapter commits a Class C
 24 infraction.
 25 Sec. 9. The state department may adopt rules under IC 4-22-2
 26 to implement this chapter.
 27 SECTION 3. IC 34-30-2-96.3 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2007]: Sec. 96.3. IC 24-4-15-6 (Concerning
 30 acts or omissions in gratuitously rendering emergency care
 31 involving the use of automated external defibrillators in health
 32 clubs).
 33 SECTION 4. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding
 34 IC 24-4-15, as added by this act, a health club is not required to
 35 comply with IC 24-4-15, as added by this act, before July 1, 2008.
 36 (b) This SECTION expires December 31, 2009.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 134, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 8, delete "fifty (50) individuals use the services or facilities" and insert "**thirty (30) pieces of motorized physical fitness equipment are provided for use by individuals.**".

Page 2, delete line 9.

and when so amended that said bill do pass.

(Reference is to SB 134 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.

 SENATE MOTION

Madam President: I move that Senator Rogers be added as second author of Engrossed Senate Bill 134.

MILLER

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3-3-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007 (RETROACTIVE)]: **Sec. 13. (a) This section applies to taxable years beginning after December 31, 2006.**

(b) The definitions in IC 24-4-15 apply to this section.

(c) As used in this section, "pass through entity" means:

(1) a corporation that is exempt from the adjusted gross

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income tax under IC 6-3-2-2.8(2);

(2) a partnership;

(3) a limited liability company; or

(4) a limited liability partnership.

(d) As used in this section, "taxpayer" means an individual, a corporation, or a pass through entity.

(e) As used in this section, "total unit cost" means the purchase price paid by a taxpayer for a defibrillator located in the taxpayer's health club.

(f) Subject to subsection (j), a taxpayer is entitled to a credit against the taxpayer's adjusted gross income tax liability (IC 6-3-1 through IC 6-3-7) for each defibrillator placed in the taxpayer's health club in a taxable year beginning after December 31, 2006, as required by IC 24-4-15. The amount of the credit to which a taxpayer is entitled under this section for a taxable year is equal to the taxpayer's total unit cost for each defibrillator that the taxpayer places in service in the taxpayer's health club in the taxable year.

(g) A taxpayer is not entitled to a carryback, carry forward, or refund of any unused credit. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

(h) To obtain the credit provided by this section, the taxpayer must:

(1) claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department; and

(2) submit to the department proof of all information that the department determines is necessary for the calculation of the credit.

(i) If a pass through entity does not have adjusted gross income tax liability against which the credit may be applied, a shareholder, member, or partner of the pass through entity is entitled to a credit equal to:

(1) the credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, member, or partner is entitled.

(j) This section expires December 31, 2009."

Page 1, line 1, delete "IC 16-19-3-29" and insert "IC 16-19-3-29.2".

Page 1, line 3, delete "29." and insert "29.2".

Page 1, line 5, delete "automatic" and insert "automated".

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Page 1, line 9, delete "Automatic" and insert "**Automated**".

Page 1, line 11, delete "automatic" and insert "**automated**".

Page 1, line 17, delete ";" and insert "**that is focused primarily on cardiovascular exertion;**".

Page 2, line 8, after "least" insert ":".

Page 2, line 8, before "thirty" begin a new line double block indented and insert:

"(A) fifty (50) persons have:

(i) purchased; or

(ii) paid a fee for;

the right to use the physical fitness facilities; or

(B)".

Page 2, line 14, after "colleges," insert "**and**".

Page 2, line 15, delete ", hospitals, hotels, and motels." and insert ".,".

Page 2, between lines 15 and 16, begin a new paragraph and insert:

"(c) The term does not include a workout center in:

(1) a hospital licensed under IC 16-21 or a health facility licensed under IC 16-28;

(2) a hotel or motel, unless the workout center allows membership by individuals who are not guests of the hotel or motel; or

(3) an apartment, a condominium, or a town home complex."

Page 2, line 26, after "who" insert ":

(A)".

Page 2, line 27, delete "state department" and insert "**American Red Cross or the American Heart Association; and**

(B) is currently certified;".

Page 2, line 27, beginning with "in", begin a new line block indented.

Page 2, between lines 33 and 34, begin a new line block indented and insert:

"(5) Post a sign at each entrance to the health club that indicates the location of each defibrillator."

Page 2, line 35, after "involving" insert "**the use of or the failure to use**".

Page 2, between lines 36 and 37, begin a new paragraph and insert:

"Sec. 7. (a) The state department and the division of fire and building safety may inspect a health club at any time:

(1) according to rules adopted by the state department; or

(2) in response to a filed complaint alleging noncompliance with this chapter.

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(b) A fire department may inspect a health club for compliance with this chapter as part of an inspection program under IC 36-8-17-8."

Page 2, line 37, delete "7." and insert "8."

Page 2, line 39, delete "8." and insert "9."

Page 3, line 3, delete "automatic" and insert "automated".

Page 3, after line 4, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE JULY 1, 2007] (a) Notwithstanding IC 24-4-15, as added by this act, a health club is not required to comply with IC 24-4-15, as added by this act, before July 1, 2008.

(b) This SECTION expires December 31, 2009.

SECTION 6. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 134 as printed February 9, 2007.)

BROWN C, Chair

Committee Vote: yeas 11, nays 1.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Senate Bill 134, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 29.

Page 4, delete line 41.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 134 as printed March 27, 2007.)

CRAWFORD, Chair

Committee Vote: yeas 11, nays 8.

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